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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,756	12/11/2003	Donna Macnab	C4277(C)	2003

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EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/734,756	Applicant(s) MACNAB ET AL.	
	Examiner Brian P. Mruk	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/16/04 & 3/11/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. The examiner makes of record that instant claims 10-12 and 15-16 recite a broad range of components followed by a series of narrow ranges (i.e. with the term "preferably"). For examination purposes, the examiner asserts that the narrow ranges recited in instant claims 10-12 and 15-16 are merely exemplary ranges, and thus, the prior art will be applied against the broadest ranges recited in instant claims 10-12 and 15-16. Furthermore, the examiner suggests that applicant should delete the narrow ranges from instant claims 10-12 and 15-16, and add new dependent claims that recite the narrow ranges recited in instant claims 10-12 and 15-16.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claim 17 provides for the use of a hydrophobically modified vinyl pyrrolidone copolymer, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 17 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

For examination purposes, the examiner will treat claim 17 as a process for improving the detergency and/or antiredeposition of a laundry detergent composition comprising adding a hydrophobically modified vinyl pyrrolidone copolymer to said laundry detergent composition.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-7 and 10-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Denzinger et al, U.S. Patent No. 4,444,561.

Denzinger et al, U.S. Patent No. 4,444,561, discloses a laundry detergent composition comprising a copolymer comprising 50-90% by weight of a vinyl ester of a C₁₋₄ aliphatic carboxylic acid monomer, 5-30% by weight of a vinyl pyrrolidone monomer, 1-20% by weight of a basic nitrogen containing monomer, and up to 20% by weight of a copolymerizable monomer (see abstract and col. 1, line 55-col. 2, line 31). It is further taught by Denzinger et al that the detergent composition further contains 5-20% by weight of an anionic surfactant, such as a linear alkyl benzene sulfonate, and adjunct ingredients, such as builders (see col. 2, line 55-col. 3, line 20). Specifically, note the Examples in columns 4 and 5. Therefore, instant claims 1-7 and 10-17 are anticipated by Denzinger et al, U.S. Patent No. 4,444,561.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches a laundry detergent composition

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containing each of the claimed ingredients within the claimed proportions for the same utility.

9. Claims 1-7 and 10-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kud et al, U.S. Patent No. 4,904,408.

Kud et al, U.S. Patent No. 4,904,408, discloses a laundry detergent composition comprising a graft polymer of a polyoxyalkylene oxide, vinyl pyrrolidone, and a vinyl ester of a saturated monocarboxylic acid containing 1-6 carbon atoms (see abstract and col. 1, lines 53-68). It is further taught by Kud et al that the detergent composition further contains 5-20% by weight of an anionic surfactant, such as an alkyl benzene sulfonate (see col. 4, lines 46-52), and 5-30% by weight of a builder (see col. 5, lines 3-10). Specifically, note the Examples in columns 6 and 7. Therefore, instant claims 1-7 and 10-17 are anticipated by Kud et al, U.S. Patent No. 4,904,408.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches a laundry detergent composition containing each of the claimed ingredients within the claimed proportions for the same utility.

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10. Claims 1-7 and 10-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lazare-Laporte et al, EP 786,517.

Lazare-Laporte et al, EP 786,517, discloses a laundry detergent composition comprising an amphiphilic carboxy containing polymer that contains vinyl pyrrolidone monomer units (see abstract and page 2, line 45-page 3, line 9). It is further taught by Lazare-Laporte et al that the laundry detergent composition further contains at least 5% by weight of anionic surfactants, such as linear alkyl benzene sulphonates (see page 5, lines 15-58), and that the pH of the composition is 7-14 (see page 7, lines 52-55). Specifically, note Examples 1-3. Therefore, instant claims 1-7 and 10-17 are anticipated by Lazare-Laporte et al, EP 786,517.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches a laundry detergent composition containing each of the claimed ingredients within the claimed proportions for the same utility.

11. Claims 1-12 and 17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Jacquet et al, GB 2,043,082.

Jacquet et al, GB 2,043,082, discloses a copolymer comprising vinyl pyrrolidone and a vinyl ester of a carboxylic acid (see abstract and page 1, lines 21-30). It is further taught by Jacquet et al that the copolymer further contains a vinyl ester monomer unit of

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formula (II), such as a vinyl ester of 2-ethyl-hexanoic acid (see page 2, lines 23-44), and that the copolymer is used in a composition that further contains a surfactant (see page 4, lines 9-10). Specifically, note Preparation Examples 1-14 and Composition Examples A-H. Therefore, instant claims 1-12 and 17 are anticipated by Jacquet et al, GB 2,043,082.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions.

12. The examiner notes that the references cited in the International Search Report as "X" references are cumulative to the art rejections of record, and thus, have not been applied in this Office action in accordance with **MPEP 706.02**.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BPM

Brian P Mruk
March 16, 2006

Brian P. Mruk

Brian P Mruk
Primary Examiner
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